

UNITED STATES BANKRUPTCY COURT  
Eastern District of California

**Honorable Ronald H. Sargis**  
**Chief Bankruptcy Judge**  
**Sacramento, California**

November 10, 2021 at 2:00 p.m.

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1. [21-22545-E-13](#) **DARYLL DESANTIS** **STATUS CONFERENCE RE: MOTION**  
[SMJ-4](#) **TO DISMISS CASE**  
**8-17-21 [89]**

**Appearances of Counsel for the hearings in the DeSantis Matters  
Only If They Do Not Concur With the Court Deleting:**

**(1) the “with prejudice” language in the proposed order ordering that  
the “bankruptcy case is dismissed (§ 2 of proposed order); and**

**(2) Paragraph 8 of the proposed order stating that no automatic stay would  
go into effect for any case filed in violation of the order dismissing the case.**

**Tentative Ruling:** Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court’s resolution of the matter.

Debtor’s Atty: Scott M. Johnson

Notes:

Set by order of the court filed 9/15/21 [Dckt 130]

Notice of Requirement to File Certification About a Financial Management Course filed 10/4/21  
[Dckt 134]

<p>The Stipulation of Parties as accepted by the Court providing for the dismissal of this case, <b>the Motion is granted and this case is dismissed.</b></p>
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The Parties and their respective counsel have worked hard to achieve a Stipulation for the Dismissal of this case, thereby allowing the Parties to focus on their underlying disputes and claims.

Stipulation, Dckt. 144. The Parties have lodged with the court a proposed order pursuant to that Stipulation.

Upon review of the Stipulation and Order, the court has two questions to address with the Parties:

- a. In the Stipulation it provides for the “Dismissal” of this case. Stipulation, ¶ 1. However, the proposed order includes language stating that the case is “Dismissed with prejudice.” Such language is used when the dismissal results in all debts of the debtor becoming nondischargeable. The court believes that the “prejudice” is in reference to the court imposing a bar on Debtor filing another bankruptcy case, without leave of this court, until after December 31, 2022.

11 U.S.C. § 349(a) grants the bankruptcy judge the authority to place limits on a debtor filing subsequent bankruptcy cases in conjunction with ordering the dismissal of a case. At the hearing, the respective counsel for the various parties to the Stipulation stated **XXXXXXX**

~~\_\_\_\_\_ The dismissal is subject to the bar on refiling, and not “with prejudice” as to dischargeability of debt in a future case and the words “with prejudice” are deleted by the court in issuing the order dismissing this case.~~

- b. The Stipulation and proposed order provide:

The filing of a motion to reopen this case or the inadvertent docketing of a new case in violation of Paragraph 3 shall not impose or operate as a stay under the Bankruptcy Code, including, but not limited to, under 11 U.S.C. §§ 105(a), 362.

While the Parties stipulate to the court nullifying the Bankruptcy Code as enacted by Congress with respect to the automatic stay, the court cannot identify a legal basis for such. Bankruptcy practitioners and judges are well aware of orders issued by some judges purporting to do such, with none being affirmed by an appellate court. The Supreme Court and the Ninth Circuit have addressed the limits of a judge (whether bankruptcy or district court) in granting relief, including using 11 U.S.C. § 105(a). These decisions include:

*Czyzewski v. Jevic Holding Corp.*, 580 U. S. \_\_\_, 137 S. Ct. 973, 197 L. Ed. 2d 398 (2017)

For these reasons, as well as those set forth in Part III, we conclude that Congress did not authorize a “rare case” exception. We cannot “alter the balance struck by the statute,” *Law v. Siegel*, 571 U.S. \_\_\_, \_\_\_, 134 S. Ct. 1188, 188 L. Ed. 2d 146, 156 (2014), not even in “rare cases.” *Cf. Norwest Bank Worthington v. Ahlers*, 485 U.S. 197, 207, 108 S. Ct. 963, 99 L. Ed. 2d 169 (1988) (explaining that courts cannot deviate from the procedures “specified by the Code,” even when they sincerely “believ[e] that . . . creditors would be better off”).

*Law v. Siegel*, 571 U.S. 451, 421 (2014):

It is hornbook law that §105(a) “does not allow the bankruptcy court to override

explicit mandates of other sections of the Bankruptcy Code.” 2 Collier on Bankruptcy ¶105.01[2], p. 105-6 (16th ed. 2013). Section 105(a) confers authority to “carry out” the provisions of the Code, but it is quite impossible to do that by taking action that the Code prohibits. That is simply an application of the axiom that a statute’s general permission to take actions of a certain type must yield to a specific prohibition found elsewhere. *See Morton v. Mancari*, 417 U. S. 535, 550-551, 94 S. Ct. 2474, 41 L. Ed. 2d 290 (1974); *D. Ginsberg & Sons, Inc. v. Popkin*, 285 U. S. 204, 206-208, 52 S. Ct. 322, 76 L. Ed. 704 (1932). Courts’ inherent sanctioning powers are likewise subordinate to valid statutory directives and prohibitions. *Degen v. United States*, 517 U. S. 820, 823, 116 S. Ct. 1777, 135 L. Ed. 2d 102 (1996); *Chambers v. NASCO, Inc.*, 501 U. S. 32, 47, 111 S. Ct. 2123, 115 L. Ed. 2d 27 (1991). We have long held that “whatever equitable powers remain in the bankruptcy courts must and can only be exercised within the confines of” the Bankruptcy Code. *Norwest Bank Worthington v. Ahlers*, 485 U. S. 197, 206, 108 S. Ct. 963, 99 L. Ed. 2d 169 (1988); *see, e.g., Raleigh v. Illinois Dept. of Revenue*, 530 U. S. 15, 24-25, 120 S. Ct. 1951, 147 L. Ed. 2d 13 (2000); *United States v. Noland*, 517 U. S. 535, 543, 116 S. Ct. 1524, 134 L. Ed. 2d 748 (1996); *SEC v. United States Realty & Improvement Co.*, 310 U. S. 434, 455, 60 S. Ct. 1044, 84 L. Ed. 1293 (1940).

Congress has statutorily addressed when the automatic stay will not go into effect in the subsequent filing of another case. See 11 U.S.C. § 362(c)(4). Congress also provides in 11 U.S.C. § 362(d)(4) when a federal judge may order that the automatic stay does not go into effect in a subsequent. However, that provision is limited to the automatic stay as it applies to an interest in property (such as a lien) and requires there to be explicit findings by the court. Additionally, if a subsequent case is filed, then the judge in that case can order the stay to be imposed.

Since it is clearly established law that under 11 U.S.C. § 105(a) the federal judge can limit the ability of a debtor to file a subsequent case, such prohibition is clearly enforceable. A judge issuing such an order uploads the order to a nationwide data base which every clerk’s office checks when presented with a new bankruptcy petition.

As announced by the court and agreed by the parties, if Debtor has a bona fide need to file bankruptcy, he may seek relief from this court. Additionally, from the creditors perspective, if another bankruptcy court were to allow the filing of a case in violation of this court’s order, Debtor’s violation of this court’s order would be subject to this court’s “mere” civil sanction powers and the district court’s civil and criminal sanction powers upon referral of a violation of this court’s order to the Chief Judge of the District Court in this District.

At the hearing, **XXXXXXX**

~~—————The provisions of the proposed order stating that the automatic stay will not go into effect if Debtor is somehow able to file a bankruptcy case in violation of this court’s order (a violation of which would be subject to this court’s civil sanction powers and the District Court’s civil and punitive sanction powers) are stricken by the court.~~

Pursuant to the terms of the Stipulation, as modified above, and good cause as stated in the Civil Minutes and on the record for this and prior hearings on Debtor’s Motion to Dismiss, the Motion is

granted.

**Counsel for Debtor and Counsel for MedMen Enterprises, Inc. have lodged with the court a proposed order, which the court shall issue after making the modifications as stated above.**

2.     [21-22545](#)-E-13     **DARYLL DESANTIS**     **CONTINUED NOTICE OF INTENT TO**  
                                  **Scott Johnson**                   **DISMISS CASE**  
  **7-13-21 [3]**

**Tentative Ruling:** Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

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<p>The court dismissing this case pursuant to the Motion of the Debtor and Stipulation of Parties as approved by the Court, <b>the Notice of Intent to Dismiss is discharged.</b></p>
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The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Notice of Intent to Dismiss filed by the court having been presented to the court, the court ordering this case dismissed pursuant to the Motion of the Debtor and Stipulation of the Parties approved by the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Notice of Intent is Discharged.

**Tentative Ruling:** Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

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The court dismissing this case pursuant to the Motion of the Debtor and Stipulation of Parties as approved by the Court, **the Motion to Dismiss or Convert is dismissed without prejudice.**

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Dismiss or Convert filed by MedMen Enterprises, Inc. having been presented to the court, the court ordering this case dismissed pursuant to the Motion of the Debtor and Stipulation of the Parties approved by the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss or Convert is dismissed without prejudice.

**Tentative Ruling:** Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

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The court dismissing this case pursuant to the Motion of the Debtor and Stipulation of Parties as approved by the Court, **the Motion to Transfer Case to Another District is dismissed without prejudice.**

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Transfer Case to Another District filed by MedMen Enterprises, Inc. having been presented to the court, the court ordering this case dismissed pursuant to the Motion of the Debtor and Stipulation of the Parties approved by the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Motion to Transfer Case is dismissed without prejudice.

**Tentative Ruling:** Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

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The court dismissing this case pursuant to the Motion of the Debtor and Stipulation of Parties as approved by the Court, **the Motion to Confirm Termination or Absence of or Relief From the Automatic Stay is dismissed without prejudice.**

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Confirm Termination or Absence of or Relief From the Automatic Stay filed by MedMen Enterprises, Inc. having been presented to the court, the court ordering this case dismissed pursuant to the Motion of the Debtor and Stipulation of the Parties approved by the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Motion is dismissed without prejudice.

Debtor's Atty: Marc Voisenat

Notes:

Continued from 9/23/21

[KL-2] Order granting Motion for Relief from Stay [Wilmington Savings Fund Society, FSB, as Owner Trustee of the Residential Credit Opportunities Trust VI-A] filed 9/24/21 [Dckt 107]

Notice of Substitution of Counsel [United States Trustee] filed 10/21/21 [Dckt 109]

<b>The Status Conference is <span style="color: red;">XXXXXXX</span></b>
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### NOVEMBER 10, 2021 STATUS CONFERENCE

No updated Status Reports or other documents have been filed by Debtor as of the court's November 6, 2021 review of the Docket. On September 24, 2021, this court entered an order modifying the automatic stay, effective noon on October 22, 2021, to allow Wilmington Savings Fund Society, FSB foreclose on the Las Pasas Way Property.

At the Status Conference, XXXXXXX

### SEPTEMBER 23, 2021 STATUS CONFERENCE

The court has set for hearing on the court's September 23, 2021 calendar the continued hearing on the Motion for Relief From the Automatic Stay filed by Wilmington Savings Fund Society, FSB ("Creditor WSFS"). DCN KL-1. The court has issued an adequate protection order requiring the Debtor in Possession to make the current post-petition payments to Creditor WSFS and an additional amount of \$400 a month to be held in an impound for payment of real property taxes on the property that secures Creditor WSFS claim. Order, Dckt. 102.

On September 13, 2021, Creditor WSFS filed a Supplemental Declaration in support of the Motion for Relief From the Stay. Dckt. 103. The testimony provided therein is that the Debtor in Possession tendered payment for August 2021 (which payment is due by the 10<sup>th</sup> day of each month), but the check was returned for insufficient funds. *Id.*, ¶ 5. Additionally, the testimony is that as of the September 13, 2021 declaration, no payment had been made for the September current payment and the \$400 impound. *Id.*

No updated status report has been filed by the Debtor in Possession. As of the court's September 22, 2021 review of the Docket, no plan or disclosure statement has been filed. No monthly operating reports have been filed by Debtor in this case, with the first being due for March 2021 and each month thereafter.



Though the Debtor and Debtor in Possession lay blame on Debtor's ex-husband for failing to make the required payments on Creditor WSFS secured debt, the file does not reflect Debtor in Possession enforcing any rights against the ex-husband arising under any marital settlement agreement or dissolution order.

At the Status Conference, the court addressed the Debtor/Debtor in Possession's lack of prosecution of the case, the defaults in the adequate protection payments, and the Debtor in Possession's failure to file monthly operating reports.

### **July 22, 2021 Status Conference**

This Chapter 11 case was filed on March 30, 2021. This case was originally filed under Chapter 13 of the Bankruptcy Code, with the court entering an order converting it to Chapter 11 on May 26, 2021. Order, Dckt. 38. In the Civil Minutes from the hearing on the Motion to Convert, the court identified some challenges Debtor and her counsel might have to address. Debtor in Possession filed a Status Report on July 14, 2021. Dckt. 83. The Debtor in Possession anticipates hiring special counsel to prosecute litigation concerning rights of the Bankruptcy Estate. One will be asserting a breach of the marital settlement agreement with Debtor's ex-spouse. The second is to protect the estate's 20% interest in the Jerry Davale Trust.

Debtor in Possession reports that she is current on all mortgages, except that of Wilmington. The Docket discloses that Wilmington Savings Fund Society, FSB filed a Motion for Relief From the Stay on July 12, 2021. Dckt. 75. In the Motion it is alleged that the loan secured by the Debtor's property, which is now property of the Bankruptcy Estate, has been in default for more than eight and one-half years. Debtor in Possession projects having a plan and disclosure statement filed by September 15, 2021.

**U.S. TRUSTEE V. EHMKA**

Plaintiff's Atty: Justin C. Valencia  
Defendant's Atty: Pro Se

Adv. Filed: 8/31/21  
Answer: 9/29/21

Nature of Action:  
Objection/revocation of discharge

Notes:

<b>The Status Conference is <span style="color: red;">XXXXXXX</span></b>
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**SUMMARY OF COMPLAINT**

The Complaint filed by the U.S. Trustee ("Plaintiff"), Dckt. 1 , asserts claims for Defendant-Debtor being denied his discharge in Defendant-Debtor's related Chapter 7 bankruptcy case. The Complaint details asserted undisclosed assets and transfers, inaccurate information on the original and amended schedules and statement of financial affairs, and Defendant-Debtor failure to provide documents and information in compliance with court authorized 2004 Examination. The Objection to Discharge is sought on each of these independent grounds: 11 U.S.C. §§ 727(a)(2)(A), (a)(2)(B), (a)(3), (a)(4)(A), and (a)(5).

**SUMMARY OF ANSWER**

Kevin Ehmka ("Defendant-Debtor"), *in pro se*, has filed a n EDC 3-101 pro se form debtor answer, admitting that this is a core bankruptcy proceeding, and denying other allegations except the procedural facts regarding his filing of the bankruptcy petition. Dckt. 7.

**FINAL BANKRUPTCY COURT JUDGMENT**

Plaintiff alleges in the Complaint that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157, and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(J). Complaint ¶¶ 3, 4, Dckt. 1. In the Answer, Defendant admits that this is a core matter proceeding, which necessarily includes admission that jurisdiction exists pursuant to 28 U.S.C. § 1334 Answer; Dckt. 7.

**JOINT DISCOVERY PLAN**

The Parties filed their Joint Discovery Plan on November 4, 2021, setting various dates and deadlines within this Adversary Proceeding. Dckt. 9.

## **ISSUANCE OF PRE-TRIAL SCHEDULING ORDER**

The court shall issue a Pre-Trial Scheduling Order setting the following dates and deadlines:

- a. Plaintiff alleges in the Complaint that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157, and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(J). Complaint ¶¶ 3, 4, Dckt. 1. In the Answer, Defendant admits that this is a core matter proceeding, which necessarily includes admission that jurisdiction exists pursuant to 28 U.S.C. § 1334 Answer; Dckt. 7.
- b. Initial Disclosures shall be made on or before **November 30, 2021**.
- c. Expert Witnesses shall be disclosed on or before **February 2, 2021**, and Rebuttal Expert Witnesses, if any, shall be disclosed on or before **xxxxxxx, 2021**.
- d. Discovery closes, including the hearing of all discovery motions, on **April 29, 2022**.
- e. Dispositive Motions shall be heard before **May 31, 2021**.
- f. The Pre-Trial Conference in this Adversary Proceeding shall be conducted at **2:00 p.m. on TDB in End of June/July, 2022**.

**FREEMAN ET AL V. HFC ET AL**

Plaintiff's Atty: Timothy J. Walsh  
Defendant's Atty: unknown

Adv. Filed: 2/2/21 [Reissued Summons 6/22/21]  
Answer: none

Nature of Action:  
Validity, priority or extent of lien or other interest in property

Notes:  
Continued from 10/20/21. Plaintiff-Debtor to file on or before 11/3/21 an updated Status Report advising the court of Plaintiff-Debtor's prosecution of this Adversary Proceeding.

Declaration of Default and Request to Enter Order of Default filed 10/28/21 [Dckt 19]; Memorandum re Default Papers filed 11/2/21 [Dckt 20]

<b>The Status Conference is <span style="color: red;">XXXXXXX</span></b>
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**NOVEMBER 10, 2021 STATUS CONFERENCE**

In the Complaint Plaintiff-Debtor seeks to quiet title as to Defendant's deed of trust on Plaintiff-Debtor's property. Defendant's claim was determined in Plaintiff-Debtor's Chapter 13 case to have \$0.00, with the entire claim being unsecured because there was no value in the property securing the claim in excess of senior liens. Plaintiff-Debtor has completed their Chapter 13 Plan, fixing the \$0.00 valuation of the claim secured by the property.

On October 28, 2021, Plaintiff-Debtor filed a Declaration of Default and Request for Entry of Default. Dckt. 19. The Clerk of the Court issued a Memorandum re: Default Papers (Dckt. 20) identifying the following deficiencies:

- A. No Request for Entry of Default, Form EDC 3-726, has been filed by Plaintiff-Debtor.
- B. The date the summons was issued stated in the declaration is incorrect/not made.
- C. A statement that the court has fixed a deadline for filing an answer or the 30 or 35 day time limit applies is incorrect/not made.
- D. A statement that defendant is not entitled to benefits of the service members Civil Relief Act of 2004 and/or declaration is incorrect/not made.

- E. A statement that defendant is not an infant or incompetent declaration is incorrect/not made.

The court notes that this Complaint was filed on February 2, 2021. The reissued summons is stated to have been served on June 23, 2021. Cert. of Serv.; Dckt. 12. It states that service was made on the following persons:

HSBC BANK USA N.A. CT CORPORATION SYSTEM, AGENT FOR  
SERVICE OF PROCESS 818 WEST SEVENTH ST. LOS  
ANGELES, CA. 90017

H.F.C. INC, MARTIN GLICKFIELD AGENT FOR SERVICE OF PROCESS  
2133 LOMBARD ST, AT FILLMORE, SAN  
FRANCISCO, CA. 94123

HSBC BANK NEVADA N.A., BASS & ASSOCIATES P.C.  
3936 E. FT. LOWELL ROAD, SUITE #200 TUCSON, AZ 85712

HFC BENEFICIAL/ HSBC MANAGING OFFICER AGENT FOR SERVICE OF  
PROCESS  
P.O. BOX 3425 BUFFALO, N.Y. 14240-9733

At the Status Conference, **XXXXXXX**

#### **OCTOBER 20, 2021 STATUS CONFERENCE**

Nothing further has been filed by Plaintiff-Debtor since the August 4, 2021 Status Conference. No action has been taken with respect to the asserted defaults by the Defendants.

At the Status Conference, no appearance was made by counsel for Plaintiff-Debtor. It appears that there was a calendaring error.

#### **AUGUST 4, 2021 STATUS CONFERENCE**

On August 2, 2021, Plaintiff filed a Status Conference Report. Dckt. 13. The report that though served, the named Defendants have not responded, and Plaintiff will be seeking the entry of their defaults and then filing a noticed motion for entry of a default judgment.

# FINAL RULINGS

9. [20-20715](#)-E-13      FOUAD MIZYED  
[20-2016](#)  
MIZYED V. FAY SERVICING, LLC  
ET AL

CONTINUED STATUS CONFERENCE  
RE: AMENDED COMPLAINT  
9-14-20 [[49](#)]

**Final Ruling:** No appearance at the November 10, 2021 Status Conference is required.

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Plaintiff's Atty: Arasto Farsad; Nancy W. Weng  
Defendant's Atty: Jana Logan

Adv. Filed: 2/14/20  
First Amd. Cmplt Filed: 9/14/20  
Answer: none

Nature of Action:  
Injunctive relief - other  
Declaratory judgment  
Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)

Notes:

[AF-6] Joint Stipulation to Request a Stay of Proceedings for an Additional 45-60 Days as the Loan Modification Application is Pending filed 10/20/21 [Dckt 97] [as of 11/3/21: order pending]

**The Status Conference has been continued to 2:00 p.m. on January 5, 2022, pursuant to prior order of this court (Dckt. 98) to allow the Parties additional time to resolve this matter.**

10. [10-27435-E-7](#)      **THOMAS GASSNER**  
[19-2006](#)  
**HUSTED V. MEPCO LABEL SYSTEMS**  
**ET AL**

**PRE-TRIAL CONFERENCE RE:**  
**AMENDED COMPLAINT**  
**6-3-20 [98]**

**Final Ruling:** No appearance at the November 10, 2021 Status Conference is required.  
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Plaintiff's Atty: J. Russell Cunningham; Kristen Ditlevsen

Defendant's Atty:

Charles L. Hastings [Laura Strombom]

Scott G. Beattie [Carol L. Gassner; Alfred M. Gassner; Mepco Label Systems]

Adv. Filed: 1/7/19

Answer:

2/5/19 [Alfred M. Gassner; Carol L. Gassner; Mepco Label Systems]

2/5/19 [Laura Strombom]

1<sup>st</sup> Amd Cmplt Filed: 6/3/20

Answer:

6/17/20 [Laura Strombom]

6/19/20 [Alfred M. Gassner; Carol L. Gassner; Mepco Label Systems]

Counterclaim of Alfred M. Gassner; Carol L. Gassner; Mepco Label Systems filed 6/19/20

Answer: 7/9/20

Nature of Action:

Recovery of money/property - turnover of property

Notes:

Pursuant to Stipulation, set by order of the court filed 4/1/21 [Dckt 166]

Continued to 12/9/21 by order of the court filed 5/20/21 [Dckt 171]

Continued to 12/16/21 [specially set day and time] by order of the court filed 7/22/21 [Dckt 175]

Order Appointing Resolution Advocate and Assignment to the Bankruptcy Dispute Resolution Program  
filed 10/4/21 [Dckt 176]

Joint Stipulation to Modification of Scheduling Order filed 10/25/21 [Dckt 179] [as of 11/3/21: order  
pending]

Pursuant to the Joint *Ex Parte* Motion of the Parties, **the Pre-Trial Conference has been continued to a Date TBD on the Court's April 2022 Calendar (Order, Dckt. 4)**